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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/761,950 | 01/17/2001 | Francesco Natalini | 108041-0012 | 6194 |
| 24267 | 7590 | 02/16/2005 | EXAMINER | |
| CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210 | | | WEST, JEFFREY R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2857 | |

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/761,950

Applicant(s)

NATALINI ET AL.

Examiner

Jeffrey R. West

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____

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SUPERVISORY PATENT EXAMINER
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Continuation of 3:

The proposed amendments are not deemed to place the application in better form by materially reducing or simplifying the issues for appeal because they only seek to incorporate the subject matter of claims 44 and 65 which are rejected under the combination of Johnson and Billington.

Continuation of 11:

Applicant argues that "the current system includes two levels of analysis — a first level that produces warning and alarm messages, and a second level that uses the warning and alarm message information and involves a further, more in-depth, analysis to determine if one or more of the monitored appliances in a given household requires other or more attention than is indicated by the results of the first level of analysis . . . [t]he cited Johnson and Billington references describe systems that perform operations necessary to produce alarm and, in the case of Billington, alarm and/or warning messages and reports. There is no teaching or suggestion in the references that either system performs a further, more in-depth analysis based on the determination that alarm and/or warning conditions have been met." In interpreting Johnson, Applicant indicates that "The transducer control modules combine data, as appropriate, and compare the data to respective user-defined or default thresholds. If one or more of the thresholds are exceeded, the transducer control module sends an 'event' message to the monitoring system... The monitoring system thereafter decides 'whether or not send an alarm'... that is, the monitoring system detects 'when the alarm conditions have been met'."

The Examiner asserts that in the invention of Johnson, two-level analysis is used. A first level of analysis is performed in the transducer control modules and a second level of analysis is performed by the monitoring system. Applicant interprets Johnson as determining alarm conditions only at the monitoring system and not the transducer control modules. The Examiner asserts that Johnson specifically indicates, "The transducer control module receives and analyzes transducer measurement and detects alarm conditions. The transducer control module communicates with the monitoring system via a wide area network and the communications device. The monitoring system receives, stores and analyzes the information received from the transducer control module and reports the information to the end-user terminals via a wide area network, such as the Internet, in response to user requests" (column 3, lines 5-13). Therefore, Johnson explicitly states that two-level analysis is used and further that the transducer control module determines alarm conditions. Johnson also discloses that the transducer control module receives the functional data obtained by transducers and, from analysis of the data, forms two different types of messages: event reports, corresponding to alarm conditions, and status reports (column 14, lines 27-30, "Event reports notify the monitoring system of a change in the monitored asset that requires action, while status reports are periodically transmitted to update status information about the system").

Johnson also explicitly discloses that the monitoring system receives the event and status messages and further analyzes the messages and received data to produce an in-depth analysis and determine other needed attention in accordance with the type of message received (column 15, lines 54-63 and column 20, lines 39-48, "Monitoring system 20 includes computer hardware and software which receives, stores, and analyzes event and status information from the item or facilities being monitored. The monitoring system watches for, detects, and reports trends in the monitored data, as well as detecting when the alarm conditions have been met. The monitoring system is the principal interface between the overall system and the end-user. It is the sub-system with which they interact to receive status reports, program event and alarm conditions and issue control commands to actuators" and "The end-user activates the monitoring account ... defines the desired alarms and status reports, and defines the distribution list (e.g., names, telephone numbers, e-mail addresses, etc.) for messages as described above. The monitoring system continues to receive event reports and status information from the transducer control module, and processes them according to the options selected by the end-user when the account was activated.")

Johnson therefore discloses processing the functional data in the transducer control modules to generate event (i.e. alarm) and status messages for transmission to a monitoring system for further in-depth analysis and while Johnson does describe that the messages indicate a warning that an alarm condition is approaching (column 23, lines 13-20, "The events may be defined by or triggered based on measurements from any quantity or combination of any type of transducers. The control module may send messages at any time up to an alarm condition (e.g., warning messages indicating that an alarm condition is approaching)), Johnson does not specifically disclose informing the user of the particular attention required by the device to avoid failures or distinguishing between alarm conditions requiring immediate attention and warning conditions.

The invention of Billington then teaches a predictive maintenance system including user controlled commands for collecting, viewing, statistical trending, and analyzing obtained data (column 6, lines 43-47) in order to indicate the severity of any conditions (i.e. as a warning if attention is needed to avoid failure or an alarm if service is needed) as well as recommend specific actions for remedying the condition (column 7, lines 37-47).

Therefore, the invention of Billington is not included to teach the idea of two-level analysis or that the local system analyses the data to produce alarms which are sent to a remote system for further analysis in accordance with the type of message, since these features are taught by Johnson, but instead is only included to teach that the event and status messages of Johnson be specifically defined to distinguish between the severity of the conditions.

As can be seen from the foregoing discussion, the combination of Johnson and Billington meets the instant invention as claimed.